

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

WINDELL ROBINSON §
v. § CIVIL ACTION NO. 6:15cv236
SHERIFF RAY NUTT, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Windell Robinson, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court referred the case to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Orders directing payment of the filing fee and for Robinson to file an amended complaint were sent to Robinson at his place of incarceration, but were returned with the notation that he had been released. Robinson subsequently sent in a change of address, and the orders were remailed to him by certified mail. However, the mail was again returned as unclaimed. To date, Robinson has not notified the Court of his mailing address or current whereabouts. The complaint form contains a paragraph advising plaintiffs it is their responsibility to inform the Court of any change of address and failure to do so could result in the dismissal of the case.

On September 27, 2016, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute. The Report was sent to Robinson's most recent known address by certified mail and the return card shows that it was signed for by an individual named Hubert Robinson. Neither Windell Robinson nor Hubert Robinson have contacted the Court and no objections have been filed; accordingly, Robinson is barred from *de novo* review

by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 18) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED** without prejudice for failure to prosecute. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this 12 day of November, 2016.



Ron Clark, United States District Judge